

**FILED**

JUL 15 2014

**N.J. BOARD OF NURSING**

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF NURSING

IN THE MATTER OF THE  
LICENSE OF

**KELLY LUCIANO, R.N.**  
**License # 26NO10230600**

TO PRACTICE NURSING IN THE  
STATE OF NEW JERSEY

Administrative Action

**FINAL ORDER  
OF DISCIPLINE**

This matter was opened to the New Jersey State Board of Nursing ("the Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

**FINDINGS OF FACT**

1. Respondent is a registered professional nurse in the State of New Jersey, and has been a licensee at all times relevant hereto.
2. Respondent was charged on January 18, 2010 with concealing \$468.78 worth of merchandise at Target and seeking to leave the store without paying for it. The charges were dismissed.
3. Respondent was charged with shoplifting of May 21, 2010. She was convicted of creating a disturbance and fined \$1,000.00.
4. On December 13, 2013, respondent was charged with theft of a co-worker's wallet while employed at Capital Health Medical Center in Hopewell, New Jersey.

5. Respondent was subpoenaed to appear and give testimony before a committee of the Board on February 27, 2014 at 12:15 P.M. The subpoena was sent to respondent's address of record by overnight and regular mail. The overnight mailing was delivered on February 11, 2014. The regular mailing was not returned. Respondent did not respond to the subpoena and did not appear at the time scheduled.

#### **CONCLUSIONS OF LAW**

Respondent's failure to respond to the subpoena constitutes a failure to cooperate with a Board investigation in violation of N.J.A.C. 13:45C-1.2 and 1.3, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

Respondent's arrest and conviction history is a sufficient basis upon which to order respondent, as a condition for continued licensure, pursuant to N.J.S.A. 45:1-22(e) and (f), to secure medical or other professional treatment or to submit to evaluation and monitoring to ascertain whether her continued practice may jeopardize the safety and welfare of the public.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension until respondent appears at an investigative inquiry and undergoes a comprehensive mental health and substance abuse evaluation was entered on March 10, 2014. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's

request for consideration and reasons therefor.

Respondent timely responded to the Provisional Order of Discipline and maintained that she did not receive either of the two notices that were sent to her address directing her appearance before a committee of the Board for an investigative inquiry. Both notices, however, were sent to respondent's current address and the same address at which respondent received the Provisional Order of Discipline.

Pursuant to N.J.A.C. 13:37-5.7 and 13:45-3.2, service to the street address registered with the Board shall constitute effective notice. Respondent cannot evade discipline by failing to respond to a subpoena directing her to appear before a committee of the Board.

Regarding the requirement that respondent undergo evaluation, respondent maintains that her arrests for shoplifting and theft of a co-worker's wallet were the result of personal financial issues and that she is in the process of filing for bankruptcy. Respondent maintains that she made poor judgments in her personal life and regrets that those personal issues have spilled over and affected her professional life. However, the allegation that respondent stole a co-worker's wallet at her place of nursing employment cannot be characterized as a personal issue which merely spilled over into her professional life. Respondent's continued and escalated criminal activity may or may not be a sign of an underlying mental health or substance abuse issue. The Board is warranted in requiring an evaluation to address that very issue and to determine whether respondent's continued or reinstated practice may jeopardize the safety and welfare of the public, especially since respondent's most recent criminal activity occurred in the nursing workplace. Additionally, a nursing license enables one

to have close and intimate contact with a vulnerable consumer population that may be unaware, unsuspecting, and unable to take precautions.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the findings of fact or conclusions of law. Respondent will be re-scheduled for an investigative inquiry as soon as practicably possible. In the meantime, she can begin the process of undergoing a comprehensive mental health and substance abuse evaluation under the auspices of the Board's designated intervention program, the Recovery and Monitoring Program (RAMP).

**ACCORDINGLY, IT IS** on this 15<sup>th</sup> day of July, 2014,  
**ORDERED that:**

1. Respondent's New Jersey nursing license is hereby suspended until she has appeared before the Board to respond to questions concerning her arrest/conviction history, as well as about the status of the 2013 arrest; and until she has undergone evaluation and monitoring under the auspices of the Recovery and Monitoring Program (RAMP) or some other Board-approved entity, and has demonstrated that she is fit and competent to practice nursing.
2. Respondent shall refrain from practicing as a nurse and shall not represent herself as a nurse until such time as her license is reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

3. By undergoing evaluation, respondent expressly waive any claim of privilege or confidentiality that she may have concerning RAMP reports and disclosures to the Board, and use by the Board of that information in any proceeding.

4. All costs associated with the evaluation, monitoring, and/or treatment outlined above shall be the responsibility of, and paid directly by, respondent.

5. The Board reserves the right to take additional action in the event that the December 13, 2013 arrest results in a conviction, or based upon the results of the comprehensive mental health and substance abuse evaluation, or upon any new information received.

NEW JERSEY STATE BOARD OF NURSING

By: Patricia Ann Murphy PhD APN  
Patricia Ann Murphy, PhD, APN  
Board President